

OSCE HUMAN DIMENSION IMPLEMENTATION MEETING
6 – 17 OCTOBER 2003
Warsaw, Poland

ANNOTATED AGENDA

MONDAY, 6 OCTOBER

10:00 – 13:00

OPENING PLENARY SESSION

15:00 – 18:00

WORKING SESSION 1

Democratic Institutions, *including*:

- Democratic elections;
- Democracy at the national, regional, and local levels;
- Citizenship and political rights;
- Ombudsman and national human rights institutions.

Democratic elections, including observation and technical assistance

In 2003, the OSCE/ODIHR has been involved in observing elections in the UK (Scotland and Wales), Armenia, Moldova and Serbia and Montenegro (Montenegro). The election schedule for the autumn includes at least parliamentary elections in Georgia and the Russian Federation, municipal elections in Albania, and presidential elections in Azerbaijan. Through the year, the OSCE/ODIHR continued to work consistently on further developing its election observation methodology, and some significant projects were undertaken, including:

- Preparation of a comprehensive inventory of existing election-related standards – “Existing Commitments for Democratic Elections in OSCE Participating States – A Progress Report” (ODIHR.GAL/39/03);
- Holding the first forum for domestic observer groups in Europe;
- Preparation of a new, fourth edition of the ODIHR Election Observation Handbook (the so-called “Blue Book”).

Questions that could be addressed:

- Are participating States meeting their commitments to conduct free and fair elections?
- How can OSCE/ODIHR election observation and technical assistance better assist participating States in meeting their OSCE commitments to conduct free and fair elections?
- How to improve the political follow up to the OSCE/ODIHR election observation missions, reports and recommendations in accordance with the Istanbul Summit Declaration and the 2001 ODIHR Human Dimension Seminar conclusions?

- How best to assist in the consolidation of considerable improvements which have been noted in the electoral processes in a number of participating States?
- What steps should participating States take to improve conditions for upcoming elections?
- How to contribute to confidence building in electoral processes in participating States where elections have been highly contested and results disputed?
- Discussion of the comprehensive inventory of election-related standards –“Existing Commitments for Democratic Elections in OSCE Participating States – A Progress Report”;
- Diversification of the staff of the OSCE/ODIHR election observation missions by increasing the participation of experts, long-term and short-term observers from South-east, Central and Eastern Europe as well as the CIS through the recently established voluntary fund for the purpose.

Democracy at the national, regional and local levels

It is essential to develop local democratic institutions and to provide sufficient financial resources to local governments in order to make them more effective and enable them to carry out their duties.

Questions that could be addressed:

- What can participating States do to encourage the enhancement of locally elected government in order to strengthen democracy?

Citizenship and political rights

While the link between citizenship and political rights is apparent, it is less evident that the absence of citizenship does or should exclude the individual from enjoyment of all political rights at all levels in the country where that person lives. In fact, under international law, this link is made only with respect to the political participatory rights to vote and stand for office, which may be reserved for citizens. For example, it is clear that existing international human rights instruments prescribe entitlements relating to and necessary for political life (including freedoms of expression, information, the press, assembly, association and movement) for "everyone" exactly not on the basis of citizenship. Similarly, there is a clear tendency in democratic societies to extend full political rights (including the rights to vote and stand for elected office) also to non-citizen residents at least at the local level.

Questions that could be addressed:

- Are participating States meeting their commitments concerning citizenship and political rights?
- What steps can participating States take to improve implementation of their OSCE commitments?
- With this in mind, a further exploration of the relationship between citizenship and the extent and/or criteria for enjoyment of specific political rights would appear to be merited.

Ombudsman and national human rights institutions

Ombudsman-type institutions play an increasingly important role in the protection of human rights in the OSCE area. The call to establish an independent national institution for the protection for human rights such as Ombudsman was recognised by the OSCE participating States in 1990 in Copenhagen and re-enforced in Moscow in 1991. The role of Ombudsman Institutions and the assistance by the OSCE and ODIHR was further discussed in a number of OSCE meetings, in particular the Human Dimension Seminar in 1998. Since then, the OSCE ODIHR has provided, in co-ordination with its international partners, assistance to numerous institutions in the OSCE area at various stages of their development.

In recent years an ever-increasing number of Ombudsman Institutions or independent national institutions have been created. Moreover, some participating States are presently discussing the creation of Ombudsman type institutions. Modern Ombudsman institutions are characterised by a wide human rights mandate and institutional independence. Their independent status and wide and flexible mandate gives a potential to address inter alia difficult issues such as allegations of ill-treatment in custody, gender issues or problems related to specific groups such as Roma and Sinti or national minorities. They serve transparency and good governance.

Questions that could be addressed:

- How do OSCE participating States use the “Paris Principles” adopted by the UN General Assembly, which provide guidelines for establishment of National Human Rights Institutions such as Ombudsmen? How does this tie in with the OSCE and our commitments?
- What can the participating States do to improve the efficiency and independence of human rights Ombudsman institutions (legal safeguards, financial independence, respect for recommendations, etc.)?
- What are the benchmarks for the success of Ombudsman institutions and the reasons for limited success? What are the threats to the independence and the effectiveness of Ombudsman institutions?
- What are the obstacles to creating independent human rights Ombudsman in participating States who have not yet done so?
- How can the ODIHR and other OSCE bodies assist to improve the development and performance of Ombudsman Institutions?

TUESDAY, 7 OCTOBER

10:00 – 13:00

WORKING SESSION 2

Fundamental Freedoms I, *including*:

- Address by the Representative on Freedom of the Media;
- Freedom of expression, free media and information;
- Freedom of association and the right to peaceful assembly.

Freedom of expression, free media and information

There are numerous OSCE commitments ensuring individual's freedom of expression, freedom of information, and the freedom of the media. This session could usefully explore further the corrective function of the media, especially when reporting on economic structural decisions or on corruption. Discussion could also focus on ways in which administrations and governments consistently hinder investigative journalism, sometimes by eliminating the journalists concerned: "censorship by killing," or through more subtle means by utilising so-called "structural censorship," including taxation, registration, and governmental control over printing facilities, newsprint production, distribution etc. Furthermore, journalists reporting on political decisions and processes are frequently faced with defamation and insult laws. The session could also discuss reporting in the area of fighting terrorism, and safety for journalists in areas of armed conflict.

Questions that could be addressed:

- Are OSCE States fulfilling their commitments to ensure freedom of expression, information and free media?
- What kind of measures can be provided by the relevant players, i.e. governments of participating States, IGOs, NGOs, journalistic associations and media itself, to support investigative journalism, including reporting on corruption?
- What are the responsibilities of international media companies: Principles for Guaranteeing Editorial Independence?
- Are criminal defamation laws and insult laws used to silence freedom of media and freedom of expression?
- How to ensure free speech and freedom of the media while combatting terrorism?
- What measures can be taken to increase the level of safety of journalists in the OSCE region?
- What role does minority language media play in a democratic society? How can participating States support minority language media?
- What is the situation of freedom of the media and the Internet in the OSCE region? How can we ensure freedom of the media on the Internet in the OSCE participating States?

Freedom of association and the right of peaceful assembly

It is crucial to the exercise of democracy that citizens can meet and express their views as individuals, political parties, NGOs and trade unions. Rights to freedom of association and peaceful assembly have been recognized and enshrined in OSCE commitments, which date back to the 1989 Vienna meeting, the 1990 Copenhagen meeting and the 1991 Moscow meeting. Most countries recognize the freedom of association and the right of peaceful assembly in their national legislation. However, these rights are hindered in some OSCE participating States by prohibitive registration procedures and restrictions against, or constraints on, peaceful demonstrations. Concerns are being raised about such issues as government control of activities of independent organizations, harassment and intimidation of non-governmental organizations, obstacles to NGO activity through the selective application of laws and regulations, restrictions on NGO funding and registration, prevention of peaceful gatherings and police violence against peaceful demonstrators.

Questions that could be addressed:

- Are participating States implementing their commitments concerning freedom of association and the right of peaceful assembly?
- What are the obstacles to the exercise of the rights to freedom of association and peaceful assembly, and more generally to the development of civil society, including the obstacles faced by NGOs? How can these be removed or overcome?
- What steps are needed to strengthen dialogue between governments and NGOs, and to enhance the contribution by NGOs to the implementation of participating States commitments in the human dimension?
- How can the OSCE assist the participating States in implementing best practices in developing relevant legal and regulatory frameworks, including those affecting political parties, NGOs and other civil society actors?

15:00 – 18:00

WORKING SESSION 3

Fundamental Freedoms II, including:

- Freedom of thought, conscience, religion or belief;
- Follow-up to the 17 and 18 July 2003 Supplementary Human Dimension Meeting on Freedom of Religion or Belief;
- Freedom of movement.

Freedom of thought, conscience, religion or belief

Freedom of religion or belief is widely recognized as a fundamental human right (and relevant OSCE commitments are amongst the oldest, dating back to the Helsinki Final Act of 1975), yet adherents of religions or beliefs often complain that they are restricted in their manifestations of the freedom of religion or belief.

The issue of the limitations governments may place on the exercise of the fundamental freedom of religion or belief in response to the increase in activity of religious or belief groups across the whole OSCE region in the past ten years is of continuing concern; some participating States have imposed restrictive requirements for registration or re-registration. The question of whether

governments are imposing limitations appropriately and fairly in their laws and practices is of particular importance as some governments and organs of the government operate in a discriminatory manner against some religious or belief communities. This session will look, inter alia, at the conclusions of the Baku Conference of October 2002 on the Role of Religion or Belief in the Fight against Terrorism, and at the recommendations which emerged from the Supplementary Human Dimension meeting on Freedom of Religion or Belief, 17-18 July 2003.

While OSCE commitments on freedom of religion or belief are generally quite detailed, there may be scope to develop more detailed commitments on manifestations of religion or belief, such as conscientious objection, and on the best role to be played by the media in promoting tolerance and a respect for diversity.

Questions that could be addressed:

- Are OSCE States fulfilling their existing commitments to ensure freedom of thought, conscience, religion or belief?
- What international standards on registration and religious activities could be used to ensure that religious groups can practice freely?
- What are best practices among participating States in accommodating freedom of religion or belief and its manifestations, as recognized in OSCE Commitments and other international documents?
- Are the current OSCE commitments in the area of freedom of religion or belief and manifestations of the freedom of religion or belief sufficient today?
- How can the OSCE, including ODIHR and the ODIHR Advisory Panel on Freedom of Religion or Belief, assist participating States in fulfilling their commitments?

Follow-up to the 17 and 18 July 2003 Supplementary Human Dimension Meeting on Freedom of Religion or Belief

This SHDM focused on Freedom of Religion and Belief. The report of the Seminar, including recommendations made for action by participating States, the OSCE, its Institutions and Field Missions, NGOs and others, will be distributed and posted on the ODIHR website as soon as possible.

Questions that could be addressed:

- Follow-up discussion on the outcomes of the Supplementary Human Dimension Meeting.
- Recommendations for action to the OSCE participating States, OSCE Institutions and field operations, Non-Governmental Organizations and other bodies.

Freedom of movement

While most of the OSCE commitments related to migration and freedom of movement were developed in the 1980s, there are still deficiencies in a number of areas such as exit visas and internal registration regimes that restrict freedom to choose one's place of residence. It should also be noted that while the Western part of the OSCE region has been expanding the "common migration space" of the Schengen agreement, the CIS Bishkek agreement on visa-free travel has been losing much of its significance due to the exit of a number of States from this agreement.

Questions that could be addressed:

- Are participating States implementing their commitments concerning freedom of movement?
- How can the OSCE, and in particular the ODIHR, assist the participating States in implementing best practices of humane migration management? What are the lessons learned from past ODIHR migration activities?
- How can the OSCE enhance co-operation with other actors in the field at the local, regional, national and international level?
- How can the OSCE address concerns of some participating States that the region is being divided by a “paper curtain” of onerous visa requirements?

Tolerance and non-discrimination I, *including:*

- Roma and Sinti;
- Follow-up to the 10 and 11 April 2003 Supplementary Human Dimension Meeting on Roma and Sinti.

Roma and Sinti

In many OSCE States there are particular difficulties faced by Roma and Sinti. OSCE States have agreed to numerous OSCE commitments to ensure that laws and policies fully respect the rights of Roma and Sinti and, where necessary, to promote anti-discrimination legislation to this effect. The ODIHR has a specific office devoted to this issue, headed by the Contact Point on Roma and Sinti Issues. In addition, the OSCE participating States are currently drafting an Action Plan on Roma and Sinti Issues, which is expected to be adopted by the Ministerial Council before the end of the year.

Questions that could be addressed:

- Are participating States implementing their OSCE commitments to protect the rights of Roma and Sinti?
- What can participating States do to strengthen implementation of their commitments and protection of the rights of Roma and Sinti? Are sufficient mechanisms in place and functioning effectively to combat discrimination?
- Have participating States, OSCE institutions and missions sufficiently raised the level of political leadership and resources devoted to policy-making on Roma? Will negotiations on the new Action Plan of Roma and Sinti Issues provide the opportunity for adequate political commitment by national governments? How will those national commitments be transmitted to provincial and local levels?
- What is the evaluation of the work to promote Roma participation in elections as well as in decision-making at the national and local levels and in policy-making of international organizations?
- What is the evaluation of the work to date on the issue of Roma refugees and asylum seekers?
- How well are governments from participating States ensuring adequate coordination of OSCE activities and plans with those of other sub-regional, regional, and international organizations involved in the same issues?

Follow-up to the 10 and 11 April 2003 Supplementary Human Dimension Meeting on Roma and Sinti

This SHDM focused on Roma and Sinti rights. The report of the meeting, including recommendations made for action by participating States, the OSCE, its Institutions and field operations, NGOs and others, has been distributed and posted on the ODIHR website.

Questions that could be addressed:

- Follow-up discussion on the outcomes of the Supplementary Human Dimension Meeting.
- What recommendations from the Supplementary Human Dimension Meeting can be implemented immediately? Which ones require additional preparation, and why?
- Recommendations for action to the OSCE participating States, OSCE Institutions and field operations, Non-Governmental Organizations and other bodies.

15:00 – 18:00

WORKING SESSION 5

Tolerance and non-discrimination II, including:

- Equal opportunities for women and men;
- Follow up to the 13 to 15 May Human Dimension Seminar on Participation of Women in Public and Economic Life;
- Prevention of aggressive nationalism, chauvinism and ethnic cleansing.

Equal opportunities for women and men

Equality of opportunity for women and men is an integral part of sustainable democracy. Advancing equal rights is therefore an indispensable element of the OSCE's work. Promoting democratic and law-based systems requires inclusion of specific programs and policies to target women's rights and equality of opportunity. Special attention should be paid to implementing OSCE commitments in the field of equality between women and men, recognizing the role of such efforts in progress towards security and democracy. Participating States and OSCE Institutions need to take concrete steps to promote equality of opportunity of women and men to participate in and contribute to the democratic processes and economic development in the OSCE region. One of the key measures in this development is ensuring equal access for participation of women in decision-making levels across the policy-making spectrum.

Questions that could be addressed:

- Are OSCE participating States fully implementing their commitments regarding equality of opportunity for men and women?
- How are participating States ensuring equal opportunities for men and women? Are existing policies being translated into practice?
- What measures are participating States taking to ensure women's equal opportunity for participation in democratic processes and economic development, including strategies and actions to increase the number of women in decision making processes on local, regional and national level? What are the best practices?
- How to strengthen the co-operation among governments and civil society on women's rights and gender equality issues?
- How can OSCE assistance in ensuring equality of opportunity for men and women become an integral part of the OSCE's activities? What steps need to be taken?

Follow up to the 13 to 15 May 2003 Human Dimension Seminar on Participation of Women in Public and Economic Life

The Human Dimension Seminar for 2003 focused on the Participation of Women in Public and Economic Life. The Report of the Seminar, including recommendations made for action by participating States, the OSCE, its Institutions and Field Missions, NGOs and others, has been distributed and posted on the ODIHR website.

Questions that could be addressed:

- Follow-up discussion on the outcomes of the Human Dimension Seminar.
- Recommendations for action to the OSCE participating States, OSCE Institutions and field operations, Non-Governmental Organizations and other bodies.

Prevention of aggressive nationalism, chauvinism and ethnic cleansing

The determination of the OSCE participating States to combat aggressive nationalism, chauvinism, and ethnic cleansing was reaffirmed in numerous OSCE documents (Copenhagen 1990, Helsinki 1992, Stockholm 1992, Rome 1993, Budapest 1994, Lisbon 1996, Istanbul 1999, Bucharest 2001, and Porto 2002). The participating States committed themselves to combat these phenomena both by political and legislative means and by promoting awareness and understanding of the subject. However, aggressive nationalism, chauvinism and ethnic cleansing still manifest themselves in the OSCE area. Such manifestations evolve in form and complexity and become more of a challenge for the OSCE region.

This discussion could look at the root causes of these phenomena and how they can be addressed. This session should examine what legal and political steps can be taken to prevent discrimination, ensure equality and respect for diverse cultural identities, and facilitate the effective participation of minorities in public life, topics which will also be addressed in other ways during the special Thematic Discussions in the second week of the HDIM. The special role of education and the media in promoting tolerance and non-discrimination could also be looked at.

Questions that could be addressed:

- What steps should OSCE participating States take to implement measures aimed at combating such phenomena as aggressive nationalism, chauvinism, and ethnic cleansing? How should States monitor and evaluate these measures to ensure their effective implementation?
- What have been successful policies in OSCE participating States in promotion of inclusiveness, understanding and tolerance?
- What are the possibilities and limitations for governmental policies? In this connection special attention should be paid to the importance of human rights education and promotion of a human rights culture throughout society, as policies and legislation against discrimination and intolerance will not be fully effective unless they are complemented by activities which seek to bring about new behaviour and attitudes and increase mutual understanding.

- How can the governments and the media contribute positively to public perceptions and attitudes?
- What can the OSCE do to assist the governments in their efforts to combat aggressive nationalism, chauvinism and ethnic cleansing?

THURSDAY, 9 OCTOBER

10:00 – 13:00

WORKING SESSION 6

Rule of Law I, *including*:

- Legislative transparency;
- Independence of the judiciary;
- The right to a fair trial;
- Follow-up to the 28 and 29 October 2002 Supplementary Human Dimension Meeting on the Role of Community Policing in Building Confidence in Minority Communities.

Legislative transparency

OSCE commitments stipulate that democracy is an inherent element in the rule of law. They consequently also call for a legislative process to be open and public. In order for laws to be considered as legitimate by citizens the law making process must be open and citizens must have access to the legislative process. Citizens and civil society groups should have the ability to comment publicly on proposed legislation and to have access to all information concerning the legislative process. To this end participating States should have clearly defined rules concerning the passage of legislation which include provisions for maximum public input and transparency in the law making process. An open and transparent law making process is also a safeguard against the imposition of special and hidden interests and helps to ensure better compliance with OSCE human dimension commitments.

Questions that could be addressed:

- Do all OSCE states ensure legislative transparency?
- What is the relationship between laws and other normative acts enacted by the Executive branch of power?
- What are the obstacles to implementing rules that improve legislative transparency?
- What can participating States do to ensure that the public has access to the legislative process and public documents?
- How can the OSCE, its Institutions and field operations support the transparency of the law making process?

Independence of the judiciary

Independence of the judiciary continues to be an important concern in many participating States. Despite the passage of laws and constitutions that appear to assure some independence for the judiciary, there is still too frequent political or executive interference in judicial decision making. A number of OSCE participating States have established judicial councils and similar bodies over the last years. However the level of competencies and the level of self-governance for the internal autonomy of the judicial branch of power varies widely within the OSCE region.

A truly independent judiciary can restore the public trust in the judiciary and ensure that judicial decisions are based on the rule of law. It will also lead to stability and to the necessary framework for sound economic development.

Questions that could be addressed:

- Why is a strong and independent judiciary a necessary democratic institution? Are participating States meeting their commitments concerning independence of the judiciary?
- What lessons have been learned in the last ten years of attempts to establish independent judiciaries in emerging democracies? What legal protections are necessary or appropriate to ensure an independent judiciary?
- What obstacles still remain to an independent judiciary? How can the independence of the judiciary be more efficiently safeguarded?
- What can the OSCE do to help participating States to eliminate these obstacles?
- What is the role of the judiciary in protecting human rights?

The right to a fair trial

The right to be tried fairly in accordance with international standards is essential to any democratic state governed by the rule of law. The notion is also closely related to a notion of administration of justice. In order to achieve better implementation of the fair trial concept, in many participating states legislative reform is necessary in order to ensure fully the fairness of the process to all parties involved. Central to the notion of fair trial is the concept of equality of arms between the prosecution and the defence within the judicial process. A fair trial is thus not exclusively dependent on the judiciary, but also on the status and competence of the Prosecutor's Office and lawyers. Frequently, fair trial violations are the result of human rights violations in the investigative process, as well as in access to justice, including to the courts and legal counsel. A clear and accurate record of the trial procedure is an important component in protecting due process rights, as the record is preserved and can be reviewed upon appeal.

Questions that could be addressed:

- Do all participating States ensure the implementation of their OSCE commitments regarding fair trials?
- Do participating States allow for early access to legal counsel and do they provide for the necessary possibility to prepare an effective defence?
- Is the balance of powers between different actors sufficiently safeguarded? How are participating States addressing reforms to equalize the parties and move away from the prosecutor holding disproportionate power?
- What steps are being taken by participating States to institute procedures to ensure reliable and accurate recordings of court proceedings?

Follow-up to the 28 and 29 October 2002 Supplementary Human Dimension Meeting on the Role of Community Policing in Building Confidence in Minority Communities

The Supplementary Human Dimension Meeting in October 2002 on the Role of Community Policing in Building Confidence in Minority Communities provided an excellent opportunity for government officials from national and local levels to discuss best practices in outreach and interaction with their citizens. Likewise, community representatives and civil society activists gave their views on which practices have proven effective, and which have not, in improving the relationship between a police service and the public. The Report of the SHDM has been distributed to participating States and is available on the ODIHR website.

Questions that could be addressed:

- Which community policing practices can best be transferred or copied from one Police Service to another? Is every country or community different, or are there enough similarities to permit replication of successful methods from one area to another?
- What role, if any, should the OSCE -- in particular the Special Police Matters Unit of the Secretariat, the Institutions or the Field Missions -- play in helping participating States develop their Community Policing Techniques?
- What role, if any, should civil society play in this process?
- Follow-up discussion on the outcomes of the Supplementary Human Dimension Meeting.
- Recommendations for action to the OSCE participating States, OSCE Institutions and field operations, Non-Governmental Organizations and other bodies.

15:00 – 18:00

WORKING SESSION 7

Rule of Law II, including:

- Exchange of views on the question of the abolition of capital punishment;
- Prevention of torture.

Exchange of views on the question of the abolition of capital punishment

In the Vienna Document of 1989 the participating States that retain the death penalty committed themselves to do so only for most serious crimes and in a manner not contrary to their international commitments. In addition, in the Copenhagen Document of 1990 the participating States committed themselves to make available to the public information regarding the use of the death penalty and to exchange information on the question of the abolition of the death penalty.

Questions that could be addressed:

- How can the availability of statistics on the use of the death penalty be improved? How can the OSCE and the ODIHR assist in this respect?
- What steps are needed in law and practice to ensure that the safeguards contained in the OSCE commitments and other international standards are observed?
- What are the alternatives to capital punishment?

Prevention of torture

The issue of torture and ill treatment continues to be a great concern in the OSCE region. Although many changes have been made in legislation, the implementation of these laws continues to be a problem. There also needs to be a corresponding change in the mindset of those who wield the police power for the State. In this context the issue of impunity must be addressed by all participating States. The role of the judiciary in the prevention or punishment of torture should be considered. Prison reform has also been advocated as a means to help prevent torture. A more concerted targeted approach should be envisaged to eradicate torture.

On 6 and 7 November, the OSCE will hold its third Supplementary Human Dimension Meeting in 2003 on the Prevention of Torture, the agenda of which is currently being developed.

Questions that could be addressed:

- Are participating States implementing their commitments to prevent torture?
- Does the legal framework provide sufficient safeguards against torture? How can the issue of impunity be addressed? How can the effectiveness of complaint mechanisms be ensured?
- How can transparency in places of custody be ensured as a preventive tool? What is the impact of prison reform or the transfer of prisons among different Government Ministries on instances of torture?
- What steps can governments and the OSCE take to prevent torture by local police immediately after arrest?
- How can a concerted strategy for the prevention of torture in law and in fact be developed? How to decrease the predominant reliance on confessions as the main evidence in criminal cases?
- What investigatory techniques can be used to solve crimes? How can States change their systems so that the police are not rewarded for “crimes solved?”
- How can the OSCE, its field operations, the Special Police Matters Unit and the ODIHR improve their coordination and contribution to the prevention of torture?

FRIDAY, 10 OCTOBER

10:00 – 13:00

WORKING SESSION 8

Humanitarian Issues and other commitments, *including*:

- Trafficking in human beings;
- Migration, refugees and displaced persons.

Trafficking in Human Beings

Trafficking in Human Beings has been aptly described as “a pan-European scandal,” with virtually every OSCE participating State being recognized as a state of origin, transit or destination, sometimes falling into more than one category. The OSCE participating States have adopted an Action Plan on Trafficking in Human Beings (PC.DEC/557) which addresses all three areas of Protection, Prevention and Prosecution; an additional mechanism will also be considered by the participating States.

In order to being able to respond to trafficking in human beings in an effective and sustainable way in the Human Dimension, victim assistance and protection measures based on human rights principles need to be at the core of all activities. The ODIHR advocates for the design and development of national referral mechanisms that would provide a co-operative framework for state authorities and civil society to address instances of trafficking in human beings. This includes activities in all three areas of prevention, protection and prosecution including legislative review and reform.

Questions that could be addressed:

- Are participating States implementing their commitments concerning combating trafficking in persons?
- A comprehensive identification process for alleged trafficked victims is crucial and requires the involvement of various governmental and civil society actors and the possibility for a sufficient reflection delay for the victim. How do OSCE participating States respond to these needs?
- Different international fora such as the European Union and the Council of Europe are currently debating and developing guidelines for temporary residence permits for victims of trafficking. How can the OSCE participating States ensure those organizations act in coherence with the OSCE Action Plan?
- Should the right of temporary residence be linked in any way to the willingness of the victim to appear as a witness?
- Protection of the confidentiality and privacy of personal data is a fundamental right. What measures should be taken to ensure that all stakeholders comply with this international human rights standard?
- National Referral Mechanisms are the building blocks of effective regional and international co-operation to combat trafficking and to assist its victims. How does co-operation translate into practical terms?

Migration, refugees and displaced persons

Conflicts, economic disparity and other factors continue to cause displacement, including refugee flows and internal displacement, as well as migration in the OSCE region. Protecting the human rights of these people is an important issue in the OSCE region. (Note that questions concerning Migrant Workers will be discussed for a full day during the second week of the HDIM, so they need not be addressed at this time.)

Questions that could be addressed:

- Do participating States provide sufficient human rights protection to refugees, IDPs and migrants? What more needs to be done?
- Do the OSCE participating States implement their commitments regarding the right of displaced persons to voluntary return?
- What role can NGOs play in assisting governments in providing support to refugees and IDPs?
- Are the current OSCE commitments in the area of human rights protection for refugees, IDPs and migrants sufficient today?

15:00 – 16:00

WORKING SESSION 9

Humanitarian Issues and other commitments, (*cont.*):

- Treatment of citizens of other participating States;
- International Humanitarian law;
- Any other business.

Treatment of citizens of other participating States

Is the treatment by participating States of citizens of other participating States consistent with OSCE commitments?

International Humanitarian Law

The presence of internal armed conflicts within the OSCE region (as well as a legacy of international armed conflict) highlights the importance of the implementation of humanitarian law by participating States, especially as concerns the protection of civilians and the respect for fundamental non-derogable rights. Some participating States have been involved in international armed conflict with non-OSCE States over the past year.

Questions that could be addressed:

- The principle of distinction between civilians and combatants and the principle of proportionality.
- The Rome Statute of the International Criminal Court entered into force on 1 July 2002. Significance and importance of this event.
- The Additional Protocols to the Geneva Conventions, the Ottawa Convention on the ban of anti-personnel mines and the co-operation with the International Criminal Tribunals

for the former Yugoslavia and for Rwanda.

Any Other Business

Participants may use this Session to raise any other OSCE human dimension commitments that have not been previously covered.

16:00 – 18:00

PLENARY SESSION

Presentation of the outcome of the Working Sessions.

Preliminary discussion of the recommendations made, as a preparation for the Closing Reinforced Plenary Session.

MONDAY, 13 OCTOBER

10:00 – 13:00 and 15:00 – 18:00

WORKING SESSIONS 10, 11

Discussion of human dimension activities, with a primary focus on project work, also *including*

- Human Dimension mechanisms
- The role of OSCE institutions and bodies, including the Conflict Prevention Centre, Special Police Matters and Anti-Terrorism Units of the Secretariat in Vienna
- The functioning of OSCE missions and field operations
- Training and capacity building

The internal agenda for this day's discussion will be distributed separately in due time

Project activities:

The OSCE has played in recent years a much more active role in seeking to strengthen democracy and human rights practices, as well as to promote the strengthening and compliance of Human Dimension Commitments by OSCE participating States, through the development and implementation of targeted activities and projects. These human dimension activities, including the project work of OSCE institutions and of both large and small field offices, have grown in number, intricacy and duration. They now include specific assistance efforts, programs and projects (i.e. legislative and technical assistance, training, and workshops for both government officials and members of civil society); work with specific States (i.e. Ministries and other governmental structures, civic society, etc.) and in sub-regional groupings; as well as work at the international political level (i.e. consultation and co-ordination with other international organizations, etc.).

OSCE institutions, missions and field operations will make presentations on their projects and future priorities in the Human Dimension. International organizations and NGOs -- as well as participating States and other participants -- are invited to comment on the presentations and to present their own project priorities for reciprocal comments.

Questions that could be addressed:

- What are successful examples, best practices, of OSCE programs and projects from the past years? Why were these successful. What are examples of not so successful programs and projects. Why were they not successful?
- What are the benefits and liabilities of long- and short-term programming? Where are the strengths and weaknesses in Institution versus Mission programming?
- What are successful examples of Human Dimension activities and programmes conducted by international and local organizations that OSCE could learn from? What can we teach them?

Human Dimension Mechanisms

The OSCE has established a number of tools to supervise the implementation of commitments that the participating States have undertaken in the field of human rights and democracy: the formal mechanisms and forums.

The Vienna and Moscow Mechanisms (established respectively in the Vienna Concluding Document of 1989 and at the last meeting of the Conference on the Human Dimension in Moscow in 1991, partly constituting a further elaboration of the Vienna Mechanism) can be invoked on an ad hoc basis by any individual participating State or by a group of States. Through the established set of procedures these mechanisms allow States to raise questions relating to the human dimension situation in another OSCE State. The Moscow mechanism, in particular, provides for the establishment of ad hoc missions of independent experts to assist in the resolution of a specific human dimension problems, including the right to investigate alleged violations of OSCE commitments, in exceptional cases even without the consent of the State in question. Until now the Moscow Mechanism has been established five times, the last time being in December 2002-March 2003 when it was invoked by ten OSCE States in relation to Turkmenistan.

Questions that could be addressed:

- What were the lessons learned with regard to the use of Moscow mechanism in 2002-2003? What practical improvements are required to ensure smooth operation of the mechanism?

The role of OSCE institutions, missions and field operations

The Human Dimension Implementation Meeting provides an important forum for participating States and other participants to highlight Human Dimension activities with a view to identifying lessons-learned and seeing where a greater focus from the OSCE Institutions, missions and field operations could prove useful in identifying trends and priorities for the future.

The OSCE missions and field operations are the instrument that confer on the Organization both an active presence and an important role throughout the OSCE space. Usually, human dimension related issues are central among their tasks. Missions and field operations' mandates differ and so do their sizes. Thus in large missions the above mentioned issues are tackled by separate Departments, whereas in small ones they are dealt with by focal points covering more than one human dimension aspect. The relevant assistance offered to the host country falls strictly within the respective mandate approved by the participating States. The supervision of all the activities carried out by OSCE missions and field operations is coordinated by the Conflict Prevention Centre and the OSCE Chairmanship.

With heavy program loads and increasing demands by the participating States and the NGO community for human dimension expertise, as well as external demands to co-ordinate and co-operate with international organisations and partner organisations, the OSCE needs to continue to co-ordinate its activities internally, with other international organizations, and with NGOs active in the OSCE region to increase effectiveness and to prevent duplication.

Questions that could be addressed:

- Where is OSCE better suited to provide Human Dimension assistance? What kinds of foci should the Organization look to in the future?
- How can the OSCE Institutions, missions and field operations best assist the participating States in implementing their Human Dimension commitments? What else can OSCE be doing in the Human Dimension field?
- How effective is the co-operation by the OSCE and its institutions, missions and field operations with local actors - both governmental and non-governmental - in Human

Dimension activities? How effective is the cooperation among national actors? How can it be improved?

- How effective is the co-ordination and co-operation with other international actors (for example CoE, EU, EBRD, UNHCHR, UNHCR, IOM) in Human Dimension activities, at Headquarters or in the field? How can it be improved? Are there useful models for co-operation and co-ordination that will help overcome duplication of efforts?
- How can the results of the Human Dimension Implementation Meetings be taken forward most effectively to the Permanent Council and the Ministerial Council?

Training and capacity building

The need for and the importance of training and capacity building for the organization, particularly in the field of human rights, has been repeatedly recognized. The work of the Training Coordinator located in the Secretariat in Vienna aims at providing training opportunities in necessary skills in order to meet the challenging tasks of the staff of the organization. Coordination and support of training activities in the numerous missions and field operations, including cooperation with international organizations, is being carried out on a regular basis.

In addition to the Training Section of the Secretariat, the role of the ODIHR in providing human rights training has been increasing. The adoption of the human rights training and education programme is one of the first steps in providing the missions and field operations staff with training which aims to increase the capacity of OSCE staff to respond effectively to individual complaints on specific cases of human rights violations. The ODIHR envisions conducting a series of training sessions for field personnel in Central Asia, Caucasus and other OSCE missions, and introducing Practical Guide for OSCE field personnel on how to deal with individual complaints, for 2003-2004.

Questions that could be addressed:

- Is the current OSCE training programme effective and efficient for Organization's the Human Dimension activities?
- How can synergies and cross-fertilisation between internal (OSCE staff, local and international) and external (civil society) training and capacity building be facilitated?
- How can partner international organizations, academic and educational institutions and specialized NGOs increase efforts to improve existing training and education opportunities for civilian peace-building, especially in the area of Human Rights, Rule of Law and Democratization?
- Diversification of the staff of the OSCE/ODIHR election observation missions by increasing the participation of experts, long-term and short-term observers from South-east, Central and Eastern Europe as well as the CIS through the recently established voluntary fund for the purpose.

TUESDAY, 14 OCTOBER

10:00 – 13:00 and 15:00 – 18:00

WORKING SESSIONS 12, 13

Specifically selected topic: Prevention of Discrimination, Racism, Xenophobia and Anti-Semitism

The internal agenda for this day's discussion will be distributed separately in due time

OSCE participating States have expressed on numerous occasions their commitment to strengthening human rights standards. The fight against Discrimination, Racism, Xenophobia and Anti-Semitism is a key component of such activities. The OSCE has considerable experience in the work on ethnic, religious and national minorities and other vulnerable groups, and the challenges they face as the victims of all types of discrimination.

The OSCE held two special Conferences this year on issues related to discrimination: The OSCE Conference on Anti-Semitism (19/20 June) and the OSCE Conference on Racism, Xenophobia, and Discrimination (4/5 September). This day should examine all issues discussed during the two conferences. The day will start with general comments from the floor, followed by a discussion on the outcome of the OSCE Conference on Racism, Xenophobia, and Discrimination. This will be followed by a discussion on the outcome of the OSCE Conference on Anti-Semitism. Following these discussions, participating States, OSCE structures, and participants from international organisations and NGOs at this year's Human Dimension Implementation Meeting will have the opportunity to draw together the strands of all these interrelated issues, building on best practices, lessons learned, and recommendations made during these meetings.

The two sessions on this day will discuss the following themes:

- Legislative, institutional mechanisms and governmental action, including law enforcement
- The role of governments and civil society in promoting tolerance
- The role of education
- Information and awareness raising: the role of the media

The Modalities for OSCE Meetings on Human Dimension Issues (PC.DEC/476, Annex 1 of 23 May 2002) concerning specifically selected topics foresee, among others, that particular attention should be paid in these sessions to providing contributions to the preparation of the next OSCE Ministerial Council.

Questions that could be addressed:

- How do participating States implement their commitments related to the prevention of discrimination, racism, xenophobia, and anti-Semitism?
- Is there a need for additional commitments in this area?
- What laws or policy practices exist on the national level? How to monitor and report on incidents related to discrimination and intolerance, and how to use such information?
- How can inter-group dialogue be promoted?

- What factors can be identified as primary causes of discrimination and intolerance? What are the best ways to combat these? What is the role of governments, civil society, the media, and others?
- What is the role of international and/or regional organizations, such as the UN, Council of Europe, CIS, or European Union, in preventing discrimination, racism, xenophobia, and anti-Semitism? How can or should the OSCE work with these partners?
- How can the OSCE Structures assist in preventing discrimination, racism, xenophobia, and anti-Semitism? Is there a need for additional operational tools in this area?

WEDNESDAY, 15 OCTOBER

10:00 – 13:00 and 15:00 – 18:00

WORKING SESSIONS 14, 15

Specifically selected topic: National Minorities

The internal agenda for this day's discussion will be distributed separately in due time

It has become more apparent in the OSCE region in the last few years that seeking the solution of problems relating to the specific needs of national minorities is not just in the interest of the minorities themselves, but just as much in the interest of the States in which they live, and of the OSCE region as a whole. There is a need for recognition within the State of the plurality of communities and interests which comprise the State and of the value of harmonious inter-ethnic relations which strengthen the stability and the cohesion of the State. In this regard, it is encouraging that the development of constructive minority policies and policies which promote integration are gaining increasing attention in the OSCE region. Notable in this context are the Recommendations which were adopted by independent experts at The Hague (regarding education), Oslo (regarding use of languages), and Lund (regarding participation in public life), along with the so-called Warsaw Guidelines (regarding participation in the electoral process).

The OSCE participating States have established various legal and institutional frameworks for the protection of the rights of persons belonging to national minorities. However, it has become increasingly clear that an exclusively rights-based approach in the spirit of effective protection defined by international minimum standards may not necessarily provide for a broader inclusion of minorities. This session will therefore seek to emphasize an "issues-oriented" approach to the situation of National Minorities.

Following a presentation by an invited independent expert, an initial discussion of "Socio-Cultural Issues" will consider the topics of:

- Education;
- Use of Language;
- Cultural Life; and
- the Media.

A subsequent session on "Participation in Public Life," introduced by another independent expert, will provide participants with the chance to discuss:

- Effective Political Participation;
- Representation through Elections; and
- Representation in the Civil Service.

The Modalities for OSCE Meetings on Human Dimension Issues (PC.DEC/476, Annex 1 of 23 May 2002) concerning "specifically selected topics" foresee, amongst other things, that particular attention should be paid in these sessions to providing contributions to the preparation of the next OSCE Ministerial Council.

Questions that could be addressed:

- Are OSCE participating States implementing their commitments to ensure the rights of persons belonging to national minorities?

- Do States have sufficient anti-discrimination legislation in place and is it being implemented properly?
- Beyond protection against discrimination, what methods of social integration serve to ensure equality in law and in fact, while respecting national diversity?
- How can the effective participation of national minorities in public life be achieved beyond mere representation in legislative bodies?
- To what extent are persons belonging to national minorities represented in governmental institutions and public bodies and administration?
- The policies of OSCE participating States regarding political participation should be based on objective and non-discriminatory criteria and should not be used to restrict the enjoyment of minority rights. What good practices of OSCE participating States exist to avoid discriminatory criteria in the field of political participation?

THURSDAY, 16 OCTOBER

10:00 – 13:00 and 15:00 – 18:00

WORKING SESSIONS 16, 17

Specifically selected topic: Migrant Workers

The internal agenda for this day's discussion will be distributed separately in due time

Legal migration by persons for purposes of employment has been a factor in interstate relations for centuries. Massive changes in agriculture and industry, in national demographics and in the ease of transport in the past half-century have led to increased movements of individuals and groups, notably between or to virtually every one of the OSCE participating States. While some of these movements have been transitory or temporary, others have had a more permanent impact on the societies of both sending and receiving countries. These issues have been addressed in commitments by the CSCE and OSCE, starting with the Helsinki Final Act of 1975 and continuing through Madrid (1983), Vienna (1989), Copenhagen (1990), Paris (1990), Moscow (1991), Helsinki (1992) and Budapest (1994).

Demand for migrant work vs. anti-migration policies: a threat to human security?

As it was stated in a Communication from the European Commission in June 2003, demographic trends in Western European countries will exacerbate manpower shortages in the future:

“In the long-term it is doubtful that the negative impact of demographic change on employment and economic growth can be compensated by higher productivity growth only. The changing demographic and skills structure of the working age population causes already labour shortages.”

In this regard, a need has been recognised by the EC to promote regulation and legal frameworks to strengthen labour immigration.

The OSCE Co-ordinator of Economic and Environmental Activities confirmed this trend and linked it to the growing risk of smuggling and trafficking in human beings, during the Seminar in Ioannina in February 2003:

“ In many developed countries there is a labour deficit for low wage jobs. Over-regulation of labour markets and/or restrictive immigration rules prevents the covering of these labour shortages with legally employed persons. What follows is a grey zone that includes illicit employment of migrants and trafficked persons.”

The reciprocal relationship between the demand for cheap labour in Western Europe and the ready supply of such labour in post-socialist countries and North Africa has led to an increase in undocumented and irregular labour migration into Western Europe. A similar dynamic occurs in North America and in the post-Soviet area. Although there is a clear distinction in international law between human smuggling and trafficking in human beings, the current facilitation of the migration process, combined with the lack of adequate labour protection measures, often results in serious human rights violations, including trafficking, exploitation and abuse. Even though the fight against trafficking in human beings has been recognised as a high priority by many governments, addressing the demand for undocumented migrant labour remains neglected in the ongoing political debates.

To address the challenges faced by migrant workers and the societies which send them and receive them, discussions will consider the following thematic issues: New Challenges in Protection of Migrant Workers, and New Challenges “East and West of Vienna”

Following a presentation by an invited independent expert, an initial discussion of “The Situation of Migrant Workers” will consider the topics of:

- respect of human rights of migrant workers;
- legal status;
- problems faced;
- obstacles to integration; and
- best practices.

A subsequent session on “Push/pull Factors,” to be introduced by another independent expert, will provide participants with the chance to discuss:

- migration policies and immigration rules;
- demand for undocumented labour;
- ways to safeguard the position of legal migrant workers; and
- equality of rights between migrant workers and nationals of the host countries.

On the position of migrant workers, participants would then discuss issues such as ensuring equality of rights between migrant workers and nationals of the host countries with regard to conditions of employment and work and social security, education/vocational training, health services, social and economic integration, attention to second generation migrants. What are best practices from participating States on dealing with these issues?

The Modalities for OSCE Meetings on Human Dimension Issues (PC.DEC/476, Annex 1 of 23 May 2002) concerning specifically selected topics foresee, amongs others, that particular attention should be paid in these sessions to providing contributions to the preparation of the next OSCE Ministerial Council.

Questions that could be addressed:

- What problems and human rights abuses do migrant workers face today in the OSCE region?
- Do the current OSCE commitments provide an adequate framework for protection of migrant workers?
- Are there mechanisms and “best practices” for enforcing these commitments such as, e.g., inspection of workplaces and national referral mechanisms, etc.?
- How do participating States respond to hate crimes against migrant workers?
- Whether and how can expanded opportunities for legal labor migration be an effective measure in combating illegal migration?
- Are there positive examples of recent bilateral agreements on migrant workers?
- How should international/regional organisations and OSCE participating States regulate migration without endangering the human security of migrant workers?

FRIDAY, 17 OCTOBER

10:00 – 13:00

CLOSING REINFORCED PLENARY SESSION

